

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**PERMIT FOR DIVERSION AND USE OF WATER**

**PERMIT 21007**

Application 29553 of Robert Dickson, 1817 Spring Street, St, Helena 94574  
filed on August 31, 1989, has been approved by the State Water Resources Control Board SUBJECT TO  
PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source	Tributary to
Unnamed Stream	Conn Creek thence
Conn Creek	Napa River thence
	San Pablo Bay

2. Location of point of diversion

By California Coordinate System in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (*Projected)	Township	Range	Base and Meridian
POD #1; North 316,900 feet and East 1,877,000 feet	NE¼ of NE¼	20	8N	5W	MD
POD #2; North 316,400 feet and East 1,877,750 feet	NW¼ of NW¼	21	8N	5W	MD
POD #3; North 316,500 feet and East 1,874,350 feet	NE¼ of NW¼	20	8N	5W	MD

County of Napa

3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres
<b>Irrigation</b> <b>Frost Protection</b> <b>Fire Protection</b>	<b>SE ¼ of SW ¼</b>	<b>17</b>	<b>8N</b>	<b>5W</b>	<b>MD</b>	<b>4</b>
	<b>NE ¼ of NE ¼</b>	<b>20</b>	<b>8N</b>	<b>5W</b>	<b>MD</b>	<b>2</b>
	<b>NW ¼ of NE ¼</b>	<b>20</b>	<b>8N</b>	<b>5W</b>	<b>MD</b>	<b>16.7</b>
	<b>SW ¼ of NE ¼</b>	<b>20</b>	<b>8N</b>	<b>5W</b>	<b>MD</b>	<b>17</b>
	<b>NE ¼ of NW ¼</b>	<b>20</b>	<b>8N</b>	<b>5W</b>	<b>MD</b>	<b>21</b>
	<b>SE ¼ of NW ¼</b>	<b>20</b>	<b>8N</b>	<b>5W</b>	<b>MD</b>	<b>2</b>
	<b>NE ¼ of SW ¼</b>	<b>20</b>	<b>8N</b>	<b>5W</b>	<b>MD</b>	<b>4</b>
	<b>NW ¼ of SE ¼</b>	<b>20</b>	<b>8N</b>	<b>5W</b>	<b>MD</b>	<b>9.8</b>
	<b>SW ¼ of SE ¼</b>	<b>20</b>	<b>8N</b>	<b>5W</b>	<b>MD</b>	<b>4.5</b>
					<b>Total</b>	<b>81</b>

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 165 acre-feet per annum to be collected from November 1 of each year to May 1 of the succeeding year. (0000005C)

6. This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

(0000005I)

7. The maximum rate of diversion to offstream storage shall not exceed 2 cubic feet per second.

(0000005J)

8. The total quantity of water collected to storage under this permit shall not exceed 165 acre-feet per annum.

(0000005L)

9. Complete application of the water to the authorized use shall be made by December 31, 2009.

(0000009)

10. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing

(0000020)

11. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Before storing water in the reservoir, permittee shall furnish evidence which substantiates that the outlet pipe, or alternative facility, has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.

(0050043B)

12. Permittee shall install and properly maintain in the reservoir a staff gage, satisfactory to the State Water Resources Control Board, for the purpose of determining water levels in the reservoir.

Permittee shall record the staff gage reading on or about November 1 of each year and May 1 of the following year. Such readings shall be supplied to the State Water Resources Control Board with the next progress report submitted to the Board by permittee.

(0070047)

(0100047)

13. This permit is specifically subject to the prior right of Virginia Daly and her successors-in-interest (Daly) under appropriation issued pursuant to License 3954 (Application 9496)

(Special Term T)

14. For the protection of fish and wildlife and the prior right of Daly under appropriation issued pursuant to License 3954 (Application 9496), permittee shall during the period:

from November 1 through May 1 bypass a minimum of 2.2 cubic feet per second down stream of diversion point #3 on Conn Creek.

The total streamflow shall be bypassed whenever it is less than the designated amount.

(0140060)

15. Under this permit, permittee is precluded from pumping Conn Creek water to offstream storage unless the designated amount in Term #14 is present at the measuring location. No water shall be diverted under this permit until permittee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the bypass flow required by the conditions of this permit. Within 30 days after issuance of the permit and preceding installation of the measuring device, Daly may submit their opinion/suggestion regarding said measuring device and location to the State Water Resources Control Board and the permittee. Said measuring device shall be properly maintained.

Permittee shall allow Daly or a designated representative reasonable access to the measuring device and staff gage, during the permitted diversion season, for the purpose of verifying measuring device and staff gage readings and determining streamflow conditions and water levels in the reservoir. Access will be permitted upon at least 224 hours advance telephone notice to Applicant's son, Robert Kickson at (707) 963-3535, or Ranch Manager Lucio Perez at (707) 963-7090 or such other persons as Applicant may hereafter designate in writing to Protestant.

(0140062)

16. The total quantity of water diverted under this permit, together with that diverted under the license issued pursuant to Application 14204, shall not exceed 165 acre-feet per annum.

(0000114)

17. During years in which Lake Hennessey does not spill, upon request from the City of Napa, permittee shall immediately release water from the reservoir at the maximum practicable rate, up to the total quantity impounded that diversion season, to flow into Lake Hennessey.

Permittee shall not be obligated to release water in the reservoir below the previous October 1 staff gage reading, unless permittee has withdrawn water from the reservoir for consumptive purposes since October 1.

(Special Term C)

18 The archeological sites identified as Fasken #1 and #3 in the Cultural Resource Survey Report prepared by Division staff shall not be impacted by any activities involved in the proposed development of Application 29553. Such activities shall include any diversion structures and pipelines as well as all activities (e. g., ripping, grading, planting and installing of irrigation systems) required for the development of the Place of Use. No ground disturbance shall be allowed on the archeological deposits and no access shall be allowed for construction equipment. The archeological deposits shall be clearly flagged for avoidance and construction crews shall be directed to avoid the sites during all phases of the proposed project.

Should any buried archeological material be uncovered during project activities, such activities shall cease within 100 feet of the find. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the applicant to evaluate the find and recommend appropriate mitigation. The suspended construction activities shall resume only after the completion of the recommended mitigation, subject to the approval of the Chief of the Division of Water Rights.

(0380500)

**19. All permits issued by the State Water Resources Control Board are subject to the following terms and conditions:**

(A) Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(B) The amount authorized for appropriation may be reduced in the license if investigation warrants.

(C) Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued.

(D) Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

(E) Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(F) The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(G) This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

***This permit is issued and permittee takes it subject to the following provisions of the Water Code:***

*Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.*

*Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.*

*Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).*

**Dated: OCT 6 1999**

STATE WATER RESOURCES CONTROL BOARD

  
Chief, Division of Water Rights